

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

EARL PARRIS, JR., Individually, )  
and on Behalf of a Class of Persons )  
Similarly Situated, )

Plaintiff, )

City of SUMMERVILLE, )  
GEORGIA, )

Intervenor-Plaintiff, )

vs. )

Case No.: 4:21-cv-00040-TWT

3M COMPANY, DAIKIN )  
AMERICA, INC., HUNTSMAN )  
INTERNATIONAL, LLC, PULCRA )  
CHEMICALS, LLC, MOUNT )  
VERNON MILLS, INC., TOWN OF )  
TRION, GEORGIA, RYAN )  
DEJUAN JARRETT, E.I. )  
DUPONT DE NEMOURS AND )  
COMPANY, and THE CHEMOURS )  
COMPANY, )

**TRIAL BY JURY REQUESTED**

Defendants. )

**CITY OF SUMMERVILLE’S RESPONSE TO**  
**DUPONT & CHEMOURS’ MOTION TO STRIKE**

COMES NOW, the Intervenor-Plaintiff in this case, the City of Summerville, Georgia (“Summerville”), and responds to E.I. DuPont de Nemours and Company and The Chemours Company’s (“DuPont and Chemours” or “Defendants”) Motion

to Strike City of Summerville's Joinder and Proposed Amended Complaint as to Dupont and Chemours [Doc. 339] as follows:

**Argument**

1. The Local Rule 15 of the Northern District of Georgia state that “where reproduction of the entire pleading as amended would be unduly burdensome, parties filing or moving to file an amendment to a pleading shall be permitted to incorporate relevant provision of prior pleadings by reference.” LR. 15.1 NDGa.

2. Summerville's initial Complaint in Intervention [Doc. 137] was 42 pages long. While no Northern District of Georgia case has defined “unduly burdensome” in this context, only pleadings significantly shorter have been considered not unduly burdensome. *See Buck v. Kroger Mgmt. – NMTC Athens I, LLC*, No. 1:21-CV-0734-CAP, 2021 WL 2471485, \*2 (N.D. Ga. May 14, 2021) (ten-page pleading not unduly burdensome); *Doty Commc'ns., Inc. v. L.M. Berry & Co.*, No. 1:04-CV-361-CAP, 2005 WL 8154446, at \*2 (N.D. Ga. Feb. 9, 2005) (thirteen-page pleading not unduly burdensome).<sup>1</sup>

3. Here, in an attempt to avoid over-papering the docket, and because Summerville believed it unduly burdensome to create a mostly redundant amended

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<sup>1</sup> In *Buck* and *Doty Communications, Inc.*, the plaintiffs were allowed to amend their pleading even though their previous amendments by reference were rejected.

complaint, it used Local Rule 15 to join Plaintiff Parris's Amended Complaint [Doc. 280]. Summerville's Joiner in Plaintiff's Second Amended Complaint [Doc. 281] clearly stated that Summerville was incorporating by reference the Defendants, and the new allegations against them by Plaintiff Parris, into Summerville's Complaint in Intervention. Defendants were on notice that Summerville was adding them as a party to the Complaint in Intervention.

4. The Eleventh Circuit has upheld the use of Local Rule 15 to incorporate by reference new matters into a pleading. *See N. Ga. Elec. Membership Corp. v. City of Calhoun*, 989 F.2d 429, 432 (11th Cir. 1993) (evaluating Local Rule 200-2, a predecessor to LR 15 NDGa.). In *City of Calhoun*, the defendant filed a motion to amend its answer to include the defense of collateral estoppel, but never formally filed a new answer. *Id.* at 431. The court held that including the defense in a motion suffices to put the plaintiff and court on notice that the defendant was pleading it by reference. *Id.* at 432.

5. To ensure that Summerville's Amended Complaint in Intervention it is properly before the Court, Summerville will be filing a motion for leave to file it.<sup>2</sup>

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<sup>2</sup> If Summerville is denied leave to amended its Complaint in Intervention, it will file a new lawsuit against the Defendants stating the same claims. Summerville's claims against the Defendants should be allowed in this case in the interest of judicial economy.

**CONCLUSION**

Neither Summerville's Joinder in Plaintiff's Second Amended Complaint [Doc. 281], nor its Proposed Amended Complaint in Intervention [Doc. 301-1], should be struck because Summerville complied with Local Rule 15 and incorporated prior pleadings by reference.

Respectfully submitted this the 15<sup>th</sup> day of February, 2023.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Northern District of Georgia Civil Local Rule 7.1.D., the undersigned counsel certifies that the foregoing filing is prepared in Times New Roman 14-point font, as mandated in Local Rule 5.1.C.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing *City of Summerville's Response to DuPont & Chemours' Motion to Strike* has been filed electronically with the Clerk of Court by using the CM/ECF system which will automatically email all counsel of record on this 15<sup>th</sup> day of February, 2023.

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